

**Staff
Summary
Report**



**To: Mayor & City Council
Through: City Manager**

Agenda Item Number *12a*
Meeting Date: 04/26/01

SUBJECT: Purchase Agreement and Escrow Instructions for Purchase of the Real Property.

PREPARED BY: Larry Schmalz, Municipal Property Specialist (Ext. 8202)

REVIEWED BY: C. Brad Woodford, City Attorney (Ext. 8229)

BRIEF: Authorization for the Mayor to execute the Purchase Agreement and Escrow Instructions and any additional documents required for the purchase of real property located at 1887 E. Apache Blvd. for municipal use.

COMMENTS: **REAL PROPERTY ACQUISITION (0902-21-02)** Authorization for the Mayor to execute the purchase Agreement and Escrow Instructions and any additional documents required for the purchase of real property located at 1887 E. Apache Boulevard for municipal use. The City of Tempe will purchase the property, subject to the City's satisfaction of certain terms, conditions and contingencies as set forth in the Purchase Agreement and Escrow Instructions.

Document Name: (20010426casg01) Supporting Documents: Yes

SUMMARY: The property consists of approximately 4.5 acres (parcel no. 133-04-009A, 9B and 9C) is currently owned by the Becker family, and is one of the potential locations for the Criminal Justice Center. The purchase price is \$975,000.00 (\$5.05 per square foot). The purchase price is consistent with the appraised value. In the event this is the final location of the Criminal Justice Center, the adjacent property, 1885 E. Apache Blvd. (parcel no. 133-04-005A, 4.5 acres), owned by the Singer family will also need to be acquired.

FISCAL NOTE: Funding for this project will be included in the Fiscal Year 2001/02 Capital Improvement Program budget for the Criminal Justice Center.

RECOMMENDATION: Authorize the Mayor to execute the Purchase Agreement and Escrow Instructions and any additional documents required for the purchase of the property.

PURCHASE AGREEMENT AND ESCROW INSTRUCTIONS

This Agreement and Escrow Instructions is entered into the date last signed below by and between the City of Tempe, a municipal corporation (Buyer) and Robert E. Becker and Sylvia L. Becker, as Co-Trustee of the Becker Family Trust dated March 19, 1993 (Seller):

RECITALS:

- A. Seller owns the real Property described on Exhibit A and Exhibit A-1 together with all rights and privileges appurtenant thereto (the "Property").
- B. Buyer has threatened to condemn the Property pursuant to its power of eminent domain, and in anticipation of that condemnation, Seller has agreed to sell the Property to the Buyer, and Buyer has agreed to purchase the Property from Seller, on the terms and conditions set forth herein.

TERMS AND CONDITIONS

Therefore, for good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Purchase and Sale.** Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, the Property, on the terms and conditions set forth in this Agreement. Seller and Buyer agree that such sale is compulsory and made under the threat of condemnation as defined in Internal Revenue Code §1033.
2. **Opening of Escrow.** Escrow shall be opened within five (5) business days of Seller's acceptance of Buyer's offer for the Property and Buyer shall cause this Agreement, duly executed by each of the parties hereto, to be delivered and accepted by Chicago Title Insurance Company, 4677 South Lakeshore Drive, Suite 11, Tempe, Arizona 85282, Attn.: Cindy Scheufler, ("Branch Manager/Escrow Officer"), (480) 897-6995, at the time escrow is opened
3. **Purchase Price.** The purchase price to be paid by Buyer for this Property shall be \$975,000 and shall be deposited in escrow prior to closing.
4. **Contingencies.** Buyer's obligation under this Agreement to buy the Property from Seller is contingent upon Buyer's satisfaction or waiver of the following contingencies within forty-five (45) days of the opening of escrow (the "Contingency Period"):
 - A. Review and approval of the existing encumbrances and all other matters shown on the preliminary title report for the transfer of marketable fee title.

- B. Review and approval of existing unrecorded encumbrances, leases and other agreements affecting the Property, including a statement regarding the compensation provided, and the services performed by the security personal residing on the Property. Said agreements shall be provided to Buyer at the time escrow is opened.
 - C. Approval of the purchase of the Property by the City Council of Tempe.
 - D. Review and approval of a Phase 1 Environmental Site Assessment, and a Phase 2 Environmental Site Assessment if found to be necessary by Buyer. Seller shall grant Buyer (or Buyer's environmental consultant) permission to enter upon said Property to complete the assessments. Buyer shall pay the costs associated with the development of the assessments. Buyer shall indemnify and hold Seller harmless on account of any claim or liability incurred by Seller due to Buyer's inspection of the Property.
 - E. Buyer shall provide Seller with written notice of its disapproval of any contingencies within the Contingency Period. If Buyer fails to provide such written notice, all contingencies shall be deemed waived.
5. **Closing/Status of Title.** The escrow established hereby shall, contingent upon the satisfaction of the terms and conditions precedent set forth herein, close on or before ninety (90) days of opening of escrow. Effective as of the closing date: Escrow Agent shall, at Buyer's cost, provide to Buyer an owner's policy of title insurance of Buyer's choice issued by title insurer in the amount of the purchase price and insuring Buyer as the owner of fee simple title to the real Property.
6. **Closing Items:** At closing, the following items shall be transacted between Seller and Buyer through escrow (unless Seller and Buyer otherwise agree):
- A. Real estate and other taxes applicable to the Property shall be prorated as of the closing date.
 - B. Buyer shall pay the cost of the title policy.
 - C. Buyer shall pay all of Escrow Agent's customary escrow fees and recording fees.
 - D. Seller shall pay in full or cause to be released any liens, assessments or other monetary encumbrances to which the Property is subject to at closing.

E. Buyer shall deliver into escrow a copy of a duly executed certified copy of a Resolution of the City of Tempe authorizing the purchase of the Property.

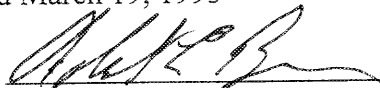
F. Seller shall deliver into escrow a duly executed Special Warranty Deed.


7. **Further Documents.** Each party will execute and deliver such further instruments and documents (the "Closing Documents"), including escrow instructions, and do any and all other acts in order to carry out the intent and purpose of this Agreement.
8. **Governing Law and Business Days.** This Agreement shall be construed and interpreted under, and governed and enforced according to the laws of the State of Arizona. For the purposes of this Agreement, a "business" day shall mean any day Escrow Agent is open for the ordinary conduct of business and, if any date for performance under this Agreement falls on any day other than a business day, the date for such performance shall be extended to the next occurring business day.

Buyer and Seller have executed this Agreement as of the respective dates set forth below their signatures.

SELLERS

Robert E. Becker and Sylvia L. Becker
as Co-Trustees of the Becker Family Trust
dated March 19, 1993

By: 

By: 

Date: 4-23-01
Address: 8621 East Appaloosa Trail
Scottsdale, AZ 85258

BUYER

City of Tempe a municipal corporation

By: _____

Date: _____
Address: P.O. Box 5002
31 E. Fifth Street
Tempe, AZ 85280

EXHIBIT "A"

Parcel No.: 133 04 009A

Legal Description:

That part of the North half of the Southwest quarter of Section 24, Township 1 North, Range 4 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

Beginning at a point on the South line of the right of way of the Tempe-Mesa State Highway, as the same is now located and established, 1119.6 feet East of the West line of the North half of the Southwest quarter of said Section 24;

thence South on a line parallel to the West line of said Section 24, 1324.05 feet to the South line of the North half of the Southwest quarter of Section 24;

thence East along the South line of the North half of the Southwest quarter of said Section 24, 152.8 feet;

thence North on a line parallel to the West line of said Section 24, 1324.05 feet, more or less, to the South line of the right of way of Tempe-Mesa Highway;

thence West, along the South line of the right of way of Tempe-Mesa Highway to the Point of Beginning,

Except the West 75 feet, thereof; and

Except the right of way 66 feet in width for the Southern Pacific Railroad, formerly the Phoenix and Eastern Railway; and

Except all that portion lying within 50 feet of the center line of the Tempe-Mesa State Highway conveyed to the State of Arizona by Deed recorded in Book 290 of Deeds, page 492, records of Maricopa County, Arizona; and

Except the North 5 feet of that portion lying South of the South line of the right of way of the Tempe-Mesa State Highway conveyed to the Salt River Valley Water User's Association by Deed recorded in Book 290 of Deeds, page 485, records of Maricopa County, Arizona.

Parcel No.: 133 04 009B

That portion of the North half of the Southwest quarter of Section 24, Township 1 North, Range 4 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

Beginning at a point on the South line of the right of way of the Tempe-Mesa State Highway 1119.6 feet East of the West line of the North half of the Southwest quarter of said Section 24;

thence South 1324.05 feet to the South line of the North half of the Southwest quarter of said Section 24;

thence East, 75 feet;

thence North, 1324.05 feet to the South line of the Tempe-Mesa Highway;

thence West to the Point of Beginning;

Except the West 52.8 feet of the North 300 feet, thereof; and

Except the right of way 66 feet in width for the Southern Pacific Railroad, formerly the Phoenix and Eastern Railway; and

Except all that portion lying within 50 feet of the center line of the Tempe-Mesa State Highway conveyed to the State of Arizona by Deed recorded in Book 290 of Deeds, page 492, records of Maricopa County, Arizona; and

Except the North 5 feet of that portion lying South of the South line of the right of way of the Tempe-Mesa State Highway conveyed to the Salt River Valley Water User's Association by Deed recorded in Book 290 of Deeds, page 485, records of Maricopa County, Arizona.

Parcel No.: 133-04-009C

Legal Description:

The West 52.8 feet of the North 300 feet of that portion of the North half of the Southwest quarter of Section 24, Township 1 North, Range 4 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

Beginning at a point on the South line of the right of way of the Tempe-Mesa State Highway 1119.6 feet East of the West line of the North half of the Southwest quarter of said Section 24;

thence South, 1324.05 feet to the South line of the North half of the Southwest quarter of said Section 24;

thence East, 152.8 feet;

thence North, 1324.05 feet to the South line of the Tempe-Mesa Highway;

thence West to the Point of Beginning;

Except all that portion lying within 50 feet of the center line of the Tempe-Mesa State Highway conveyed to the State of Arizona by Deed recorded in Book 290 of Deeds, page 492, records of Maricopa County, Arizona; and

Except the North 5 feet of that portion lying South of the South line of the right of way of the Tempe-Mesa State Highway conveyed to the Salt River Valley Water User's Association by Deed recorded in Book 290 of Deeds, page 485, records of Maricopa County, Arizona.

The total acreage for tax parcels 133-04-009A, 133-04-009B, and 133-04-009C is approximately 4.4308 acres \pm net or 193,006 square feet.

EXHIBIT "A-1"

